IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 13 of 2003 (S/S)

Date of decision: 5th October, 2004

For the approval of:

Hon'ble Chief Justice V.S. Sirpurkar.

Hon'ble Mr. Justice Irshad Hussain.

- Whether the order/judgment should be sent to the reporters for reporting? ( )

- Whether the reporters be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 13 of 2003 (S/S)

State of Uttaranchal,
Through Superintendent of Police,
Pauri, District Pauri. …… Petitioner

Versus

Raghubir Lal S/o Kamla,
Constable, 178 Armed Police,
Police Line, Pauri Garhwal,
Uttaranchal & another. ……. Respondents

Mr. K.P. Upadhyaya, learned Brief Holder for the State.
Mr. Majoj Tiwari, learned counsel for the respondent No. 1.

Hon. V.S. Sirpurkar, C.J.
Hon. Irshad Hussain, J.

1. Heard finally with the consent of the parties.

2. This is a writ petition against the order passed by the Public Service Tribunal allowing the original application filed by the respondent No. 1. The respondent No. 1, at the relevant time, was a Head Constable. He had challenged the punishment awarded to him by the Deputy Superintendent of Police of reversion to the rank of Police Constable from the rank of Head Constable.

3. Now, one look at the rules would suggest that this is a major punishment as per Rule 7(4) of the U.P. Police Officers (Punishment and Appeal) Rules, 1991, This power to inflict the major punishment lies only with the disciplinary authority, which, in this case, was Superintendent of Police. Therefore, in our opinion, the Tribunal was absolutely correct in holding that the punishment awarded was without jurisdiction. We have carefully gone through the Tribunal's order, which has taken into consideration the said rule and has relied on the same for allowing the appeal and holding that the punishment awarded by the Deputy Superintendent of Police was without jurisdiction.

4. In view of the aforesaid, the writ petition filed by the State has no merits. It is, therefore, dismissed.

(Irshad Husssain, J.)
05.10.2004

(V.S. Sir purkar, C.J.)
05.10.2004

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